

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1154 Session of
2021

INTRODUCED BY MASSER, ROTHMAN, T. DAVIS, POLINCHOCK, MILLARD,
KEEFER, COOK AND SCHWEYER, APRIL 12, 2021

REFERRED TO COMMITTEE ON LIQUOR CONTROL, APRIL 12, 2021

AN ACT

1 Amending the act of April 12, 1951 (P.L.90, No.21), entitled "An
2 act relating to alcoholic liquors, alcohol and malt and
3 brewed beverages; amending, revising, consolidating and
4 changing the laws relating thereto; regulating and
5 restricting the manufacture, purchase, sale, possession,
6 consumption, importation, transportation, furnishing, holding
7 in bond, holding in storage, traffic in and use of alcoholic
8 liquors, alcohol and malt and brewed beverages and the
9 persons engaged or employed therein; defining the powers and
10 duties of the Pennsylvania Liquor Control Board; providing
11 for the establishment and operation of State liquor stores,
12 for the payment of certain license fees to the respective
13 municipalities and townships, for the abatement of certain
14 nuisances and, in certain cases, for search and seizure
15 without warrant; prescribing penalties and forfeitures;
16 providing for local option, and repealing existing laws," in
17 preliminary provisions, further providing for definitions;
18 and, in licenses and regulations and liquor, alcohol and malt
19 and brewed beverages, further providing for sales by liquor
20 licensees and restrictions and repealing provisions related
21 to prepared beverages and mixed drinks for off-premises
22 consumption during disaster emergency.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. The definition of "sealed container" in section
26 102 of the act of April 12, 1951 (P.L.90, No.21), known as the
27 Liquor Code, added May 21, 2020 (P.L.149, No.21), is amended to
28 read:

1 Section 102. Definitions.--The following words or phrases,
2 unless the context clearly indicates otherwise, shall have the
3 meanings ascribed to them in this section:

4 * * *

5 "Sealed container" shall mean a packaged container with a
6 secure lid or cap designed to prevent consumption without
7 removal of the lid or cap. [A lid with sipping holes or opening
8 for straws must be covered or affixed with an additional seal
9 before sale.]

10 * * *

11 Section 2. Section 406 of the act is amended by adding a
12 subsection to read:

13 Section 406. Sales by Liquor Licensees; Restrictions.--* * *

14 (j) Notwithstanding any provision of this act, a person
15 holding and possessing a valid restaurant or hotel liquor
16 license may sell prepared beverages and mixed drinks for off-
17 premises consumption where meals prepared for pick-up or
18 curbside pick-up are also available. The following shall apply:

19 (1) Except as provided in this paragraph and paragraph (3),
20 nothing in this section shall affect the ability of a licensee
21 to operate within the scope of the licensee's current license as
22 authorized by this act, provided, however, that no sales of
23 prepared beverages and mixed drinks for off-premises consumption
24 may take place after eleven o'clock postmeridian of any day
25 until the licensee's permitted hours of operation under this
26 section of the next day, including Sundays if the licensee has a
27 permit authorized under subsection (a) (3) and section 432(f).

28 (2) The following licensees are prohibited from selling
29 prepared beverages and mixed drinks for off-premises consumption
30 under this section:

1 (i) A licensee whose underlying license is subject to a
2 pending objection by the director of the Bureau of Licensing or
3 the board under section 470(a.1), until the matter is decided.

4 (ii) A licensee whose underlying license has been suspended
5 under section 1799.6-E of the act of April 9, 1929 (P.L.343,
6 No.176), known as "The Fiscal Code."

7 (3) For purposes of selling prepared beverages and mixed
8 drinks for off-premises consumption, a licensed premises shall
9 not be subject to section 493(14).

10 (4) A licensee selling prepared beverages and mixed drinks
11 for off-premises consumption shall utilize a transaction scan
12 device to verify the age of an individual who appears to be
13 under thirty-five (35) years of age before making a sale of
14 prepared beverages and mixed drinks for off-premises
15 consumption. A licensee may not sell or share consumers'
16 personal data from the use of a transaction scan device,
17 provided that the licensee may share the data with the
18 enforcement bureau of the board as evidence that the licensee is
19 in compliance with this paragraph.

20 (5) As used in this subsection, the term "transaction scan
21 device" shall mean a device capable of deciphering, in an
22 electronically readable format, the information encoded on the
23 magnetic strip, chip or bar code of an identification card under
24 section 495(a).

25 Section 3. Section 417 of the act is repealed:

26 [Section 417. Prepared Beverages and Mixed Drinks for Off-
27 Premises Consumption During Disaster Emergency.--(a) The
28 following shall apply:

29 (1) Notwithstanding any provision of this act, a person
30 holding and possessing a valid restaurant or hotel liquor

1 license that lost more than twenty-five per centum (25%) of the
2 person's average monthly total sales, including alcohol sales,
3 as a result of restrictions imposed during the COVID-19 disaster
4 emergency, may sell prepared beverages and mixed drinks for off-
5 premises consumption where meals prepared for pickup or curbside
6 pickup are also available.

7 (2) Except as provided in this paragraph and paragraph (4),
8 nothing in this section shall affect the ability of a licensee
9 to operate within the scope of its current license as authorized
10 by this act, provided, however, that no sales of prepared
11 beverages and mixed drinks for off-premises consumption shall
12 take place after eleven o'clock postmeridian of any day until
13 the licensee's permitted hours of operation under section 406 of
14 the next day, including Sundays if the licensee has a permit
15 authorized under sections 406(a)(3) and 432(f).

16 (3) The following licensees are prohibited from selling
17 prepared beverages and mixed drinks for off-premises consumption
18 under this section:

19 (i) A licensee whose underlying license is subject to a
20 pending objection by the director of the Bureau of Licensing or
21 the board under section 470(a.1), until the matter is decided.

22 (ii) A licensee whose underlying license has been suspended
23 under section 1799.6-E of the act of April 9, 1929 (P.L.343,
24 No.176), known as "The Fiscal Code."

25 (4) For purposes of selling prepared beverages and mixed
26 drinks for off-premises consumption, a licensed premises shall
27 not be subject to section 493(14).

28 (5) Within sixty (60) days of the effective date of this
29 section, a licensee selling prepared beverages and mixed drinks
30 for off-premises consumption shall begin utilizing a transaction

1 scan device to verify the age of an individual who appears to be
2 under thirty-five (35) years of age before making a sale of
3 prepared beverages and mixed drinks for off-premises
4 consumption. A licensee may not sell or share consumers'
5 personal data from the use of a transaction scan device,
6 provided that the licensee may share the data with the
7 enforcement bureau of the board as evidence that the licensee is
8 in compliance with this paragraph.

9 (6) A licensee selling prepared beverages or mixed drinks
10 for off-premises consumption shall prominently post a warning
11 sign in a manner that puts consumers on notice of the
12 restrictions on alcoholic beverages under 75 Pa.C.S. § 3809
13 (relating to restriction on alcoholic beverages), and that the
14 prepared beverages and mixed drinks packaged for sale by the
15 licensee are open containers and may only be transported by the
16 driver of a motor vehicle in the vehicle's trunk or in some
17 other area of the vehicle that is not occupied by the driver or
18 passengers.

19 (b) Notwithstanding any other provision of this section or
20 provision of law to the contrary, a licensee selling prepared
21 beverages and mixed drinks for off-premises consumption may only
22 do so during the COVID-19 disaster emergency and during the
23 mitigation period after the termination of the disaster
24 emergency in which a licensee is operating at less than sixty
25 per centum (60%) capacity.

26 (c) A licensee may sell liquor to another licensee qualified
27 to sell prepared beverages and mixed drinks under this section.
28 The licensee shall notify the board in writing advising it of
29 the name of the licensee and identifying any product sold to
30 that licensee, as well as the description of the liquor,

1 including brand names, sizes and numbers of containers sold to
2 another licensee. The sales may only occur during the COVID-19
3 disaster emergency and during the mitigation period after the
4 termination of the disaster emergency in which a licensee is
5 operating at less than sixty per centum (60%) capacity.

6 (d) As used in this section, the following words and phrases
7 shall have the meanings given to them in this subsection unless
8 the context clearly indicates otherwise:

9 "COVID-19 disaster emergency" shall mean the proclamation of
10 disaster emergency issued by the Governor on March 6, 2020,
11 published at 50 Pa.B. 1644 (March 21, 2020), and any renewal of
12 the state of disaster emergency.

13 "Licensee" shall mean a person holding and possessing a valid
14 restaurant or hotel liquor license authorized to sell prepared
15 beverages or mixed drinks for off-premise consumption under
16 subsection (a) (1).

17 "Transaction scan device" shall mean a device capable of
18 deciphering, in an electronically readable format, the
19 information encoded on the magnetic strip, chip or bar code of
20 an identification card under section 495(a).]

21 Section 4. This act shall take effect immediately.